

**Town of La Pointe Zoning
Town Plan Commission Public Hearing
July 13, 2011**

Town Plan Commission (TPC) Members Present: Ted Pallas, Chair, Charles Brummer, Vice-Chair, Larry Whalen, Suellen Soucek, Greg Thury, Carey Baxter, Ron Madich (7).

Town Plan Commission Members Absent: none.

Public Present: Tina Nelson, Polly O'Brien, Ted Michael, Anna Friederichs, Sue Headley Keller, Clay Keller, Jeff Theune, Bill Bussey, Burke Henry, Don Chopp, Mary A. Kingsley, Linda Fuller, Robert Tucker, Troy Nelson, Aimee Baxter, Evan Erickson, Molly O'Brien, Pete Rogers, Kris Martin, Lydia Martin, Gary Flores, Elaine Nelson, Tim Campbell, Bill Green, Mike Starck, Jim Jahoda, Susie Jahoda, Paul Brummer, John Soucek, Joyce Rian, Cynthia Banner, Thomas Banner, Jim Rogers, Brian Miller, George Haecker, Charles Meech, Anne Lacy, Birdie Pallas, Gwen Smith Patterson, Judi Patterson, Kurt Lutzow (41, sign-up sheets attached to these minutes). The ZCA tallied a total of 62 people, so there were 21 who didn't sign in.

Town Staff Members Present: Jennifer Croonborg-Murphy, ZA, Margaretta Kusch, ZCA (2).

I. Call to Order/Roll Call

Chair Pallas called the Public Hearing to order at 5:00 PM at the La Pointe Elementary Gymnasium. Roll call reflected members present or absent as recorded above.

II. Confirm Posting & Publishing

J. Croonborg-Murphy the dates of posting, publishing, and mailing. The records and affidavits are on file for public viewing.

III. Zoning Ordinance Revision Project

A. SECTION 1 INTRODUCTION

1.1 Authority and Purpose: Amend language

B. SECTION 2 DEFINITIONS:

Add and delete several definitions, amend several existing definitions

C. SECTION 3 ZONING DISTRICTS:

Establishment of new zoning districts for compliance with Comprehensive Plan. Add, Delete and Amend permitted and conditional uses in all existing zoning districts.

D. SECTION 4 GENERAL PROVISIONS

4.2 Standard District Requirements: Amend language regarding Yard Requirements, Height Exceptions, Lot Sizes, Accessory Uses and Structures, Drainage/Sanitation/Water Supply. Delete requirements regarding Development in Areas with Poor Soils. Add sections regarding Parcels in Multiple Zoning Districts, Minor Accessory Structures, Construction Site Maintenance and Erosion Control.

4.3 Supplementary Regulation: Amend language regarding Off-Street Parking Regulations, Nonconforming Lots of Record, Camping on Private Lands

4.4 Shoreland Regulations: Amend language regarding Setbacks, Removal of Shoreline Cover, Commercial Forestry, Filling/Grading/Ditching/Lagooning.

4.5 Floodplain Regulations: Amend language

E. SECTION 5 SIGNS:

5.1 through 5.4: Amend language regarding signs

F. SECTION 6 REGULATION OF SPECIAL USES

6.1 through 6.10 General Provisions: Amend language regarding Quarries (Gravel Pits) and Mines, Junk/Salvage Yards, Planned Unit Residential Developments, Travel Trailer Parks/Campgrounds, Rental

of Single Family Dwellings, Light Industrial Zone, Use of Residential Dwellings for Occupational Businesses, and Mobile Home Park. Add sections regarding Boarding/Rooming Houses, Bed & Breakfasts, Dormitories, Tourist Rooms, Accessory Dwellings (Guest Houses), Rental of Accessory Dwellings (Guest Houses), and Sexually-Oriented Businesses.

G. SECTION 7 CONDITIONAL USES:

7.1 through 7.2: Amend language regarding the process of Conditional Use Permit Application procedure and appeal.

H. SECTION 8 ADMINISTRATION:

8.1 Zoning Administrator: Amend language regarding the Duties, Power and Authority of Zoning Administrator.

8.2 Sanitary Agent: Amend language

8.3 Land Use Permits: Amend language regarding Permits Required, Application Procedure, Expiration.

8.4 Permit Process: Amend language

8.5 Enforcement: Amend language

8.6 Written Orders: Amend language

8.8 Nuisance: Amend language

8.9 Unlawful Building or Structure: Amend language

I. SECTION 9 NONCONFORMING USES:

9.1: Delete existing Section 9.1. Reformat to add sections regarding Nonconforming Uses, Nonconforming Structures as it pertains to non-shoreline nonconformities, and Nonconforming Structures as it pertains to shoreline setback.

J. SECTION 10 ZONING BOARD OF APPEALS

10.2 Rules: Amend language to add By-Law requirements and authorize the BOA to hear Conditional Use Permit Appeals.

K. SECTION 11 AMENDMENTS

11.1 Procedure: Delete existing language and add detailed language for the process of amending the text and/or map of Zoning Ordinance.

L. SECTION 12 PUBLIC HEARINGS

Section 12 Notice: Amend language

M. SECTION 13 TOWN PLAN COMMISSION

13.1 Establishment: Amend language

13.2 Compliance: Amend language

13.3 Membership: Amend language

13.4 Organization: Amend language

13.5 Powers: Amend language

13.6 Applications: Amend language

13.8 Hearings: Amend language

N. SECTION 15 COMPLAINTS

15.1: Amend language to create separate procedures regarding Land Use Permit Complaints (or lack thereof) and Conditional Use Permit Complaints.

O. SECTION 16 APPENDICES: New Section

16.1 Zoning Schedules-Dimensional Requirements: Amend Schedule to include new Zoning Districts and amend existing setbacks

16.2 Lot Width for Irregular Shaped Lots: New Section

16.3 Zoning District Use Matrix: New Section. Visual table to coincide with Section 3 Permitted and Conditional Uses

16.4 Lots in Multiple Zoning Districts: New Section. Visual aid to coincide with new Section 4.2(F).

P. SECTION 17 ZONING MAP : New Section

Amend Official Zoning Map of the Town of La Pointe for consistency with the Zoning Districts and Uses listed in Comprehensive Plan of the Town of La Pointe Future Land Use Map as well as rezone established nonconforming uses to make them conforming.

The Town Plan Commission reads aloud all letters and emails submitted by the public for this Public Hearing. The letters and emails are attached to these minutes and are a permanent part of the record.

- Beth Fischlowitz two emails dated July 11, 2011 (read by J. Croonborg-Murphy)
She makes three points. First, that in Section 13.5.A, *“and Conditional Use Permits”* should be deleted, as only elected officials should decide Conditional Use Permits. Second, that in that same section, item D, *“the reference to “applicants” does not clearly define just exactly what applications are being referred to.”* Third, that it should be made more clear that Land Use Permits don’t need to be renewed annually, but that it is rental of single family dwelling permits that need to be renewed.
- Beth Fischlowitz memo dated July 6, 2011 (read by J. Croonborg-Murphy)
She makes three points. First that Section 6.1.I.1 *“unnecessarily limits the number of dormitory buildings per parcel.”* Second, that 6.1.I.2 should not prohibit microwaves, coffeemakers, etc from dormitory rooms. Third, that 6.1.I.7 does not allow for required safety lighting at dormitories and should be amended or deleted.
- Joyce Yates dated July 9, 2011 (read by G. Thury)
She states that she is unable to build an accessory structure on her non-conforming lot of record and wishes that the new ordinance allow her to do so.
- Robert Kron dated June 30, 2011 (read by G. Thury)
He requests that the designation of the Deerwood Subdivision off Middle Road be changed from W-1 to R-1.

Members of the public attending the Public Hearing read aloud, and comment further upon, letters they have submitted. These letters are attached to these minutes and are a permanent part of the record.

Bill Bussey, letter dated July 13, 2011.

This is a re-submittal of his letter of September 23, 2010 letter received during the first Zoning Ordinance Revision Project Public Hearing cycle of fall 2010. He states that he appreciates the work that has gone into the Zoning Ordinance Revision Project. His clients *“strongly support the latest versions of Section 3.6 ...and Section 3.8”* (R-1 and S-1 districts). His clients do *“have serious concerns regarding proposed uses in...the R-1 zoning district...such as mobile home parks, rooming and boarding houses, and bed and breakfast establishments as Conditional Uses and up to two tourist rooms per single family residence as a permitted use.”* Mr. Bussey elaborates that his clients on the whole would prefer not to see such uses, conditional or permitted, in R-1, but if they are nonetheless added, they should require additional acreage (e.g. mobile home parks currently require ten acres, and that should not be changed to five, as proposed in the draft).

Charlie Meech, letter dated July 11, 2011.

Mr. Meech makes 7 points. First, he approves of the Madeline Island School of the Arts (MISA) being designated a “Commercial Educational Facility.” Second, he doesn’t want MISA’s three cottage lodgings being redefined from “motel lodging units” to “dormitory buildings.” Third, he disagrees with Section 6.1.I.1 restricting those units to 3 to a parcel. Fourth, that section restricts the maximum occupancy of three dorms to 24 people, but he points out that the three Madeline Island Music Camp dorms house 46. Fifth, he disagrees with that section prohibiting food preparation in dormitories. Sixth and seventh, he disagrees

with the “*revision’s attempt to replace the Town Plan Commission as the final authority for the island’s land use...this authority can only be vested with elected officials.*”

Mike Starck thanks the Town Plan Commission for the work they’ve put into the Zoning Ordinance Revision Project. He states that he has compiled a list of 24 points, mostly grammatical/formatting corrections, that he will submit to the Town Plan Commission. He further states that Beth Fischlowitz’s letter and emails covered some of the points he was going to make. Mr. Starck states that gaining setback relief for non-conforming lots of record (Section 4.3.C.1) should follow the variance process, not the Conditional Use Permit process. He agrees with Ms. Fischlowitz and Mr. Meech that the Town Board, not the Town Plan Commission, should approve Conditional Use Permits.

Gwen Smith Patterson states that she wants temporary camping to be allowed on private lands for 180 consecutive days, not the proposed 15 days.

Paul Brummer states that he is not in favor of any inappropriate business activity being permitted in the W-2 zone.

Jeff Theune asks about farming in the S-1 and S-2 zones. He asks that the Town Plan Commission consider amending the definition of Agricultural Crop Farming to include raising crops for small-scale profit, specifically raising crops to sell at local farmers’ markets.

Judi Patterson asks for clarification regarding temporary camping on private land in the draft. The Zoning Administrator explains to her that temporary camping on private lands doesn’t require a permit as long as the camping unit is removed after 15 days. If someone wanted to leave their camping unit on their land for an extended period of time, for example the whole summer, a Land Use Permit would be required and Ashland County would require a sanitary permit (a privy).

Bill Green points out a potential error on the Zoning Map. It appears that three lots on Chief Buffalo Lane by the Marina haven’t been designated by a color to be in any zone. He appreciates all the work that has gone into the Zoning Ordinance Revision Project.

Bill Green and Burke Henry ask for clarification regarding Section 9.3 Nonconforming Structures to Shoreline Setback, specifically if “*If such use is discontinued for twelve (12) months*” includes not living in a house for a year. The Town Plan Commission answers no.

Burke Henry notes that Section 3.7 (R-3 zone) doesn’t include the Music Camp Clubhouse in Conditional Uses. He also notes that there is no definition for Game Preserve, and that there should be one.

Kurt Lutzow states that Bed and Breakfasts should be permitted uses in the C-1 zone.

A lengthy discussion is held over the Conditional Use Permit process. In the current Ordinance, Conditional Use Permits are reviewed by the Town Plan Commission, who then make a recommendation to the Town Board. The Town Board either approves, amends, or denies the Town Plan Commissions recommendation. If the applicant then feels aggrieved, they appeal in Circuit Court. In the proposed draft, the Town Plan Commission both reviews and approves the Conditional Use Permit. The applicant may appeal to the Board of Appeals if aggrieved.

Pete Rogers states that this draft is a great improvement over the current draft, although there are still improvements that need to be made. He states that the Town Board, not the Town Plan Commission, should make the final decision/approval on Conditional Use Permits.

Judi Patterson states that the Town Board should be responsible for the entire Conditional Use Permit process (both review/recommendation and approval).

Chair Pallas states that he feels either the Town Board or the Town Plan Commission should be responsible for the entire Conditional Use Permit process. He doesn't care which body does it, but that the process shouldn't be divided between both bodies: the process should be simplified.

Paul Brummer states that he is in favor of Conditional Use Permit decision appeals being made to the Board of Appeals rather than Circuit Court.

Pete Rogers states that the Town Board should act as the Board of Appeals (i.e. the Town Board would appoint themselves to the seats of the Board of Appeals).

Ann Lacy asks how much court costs for Conditional Use Permits. The Zoning Administrator responds that appealing to the Board of Appeals costs \$750. Bill Bussey responds that hiring an attorney locally for such a case could run about \$150 an hour.

Chair Pallas states that the Town Board has not wanted to act as the Board of Appeals in conversations he's had with them.

Aimee Baxter asks how many Board of Appeals members there are. The Zoning Administrator responds that there are five members and two alternates.

Mike Starck states that the way the Conditional Use Permit process works right now, with the Town Plan Commission doing the review and recommendation and the Town Board approving, amending, or denying the Town Plan Commission's recommendation, it is as if the applicant gets a free appeal.

C. Baxter points out that, regarding the Town Board being elected officials and therefore being the body that should decide Conditional Use Permits, the Town Plan Commission are appointed by the Town Board.

Gary Russell points out that, regarding the Town Board not generally attending Public Hearings for Conditional Use Permits, the members of the Board of Appeals don't generally attend those Public Hearings either.

Bill Bussey states that there are plusses and minuses to each version of the Conditional Use Permit process, but that each are legal.

Kurt Lutzow suggests that the Town hold a referendum on the Conditional Use Permit process to see which process voters in La Pointe prefer. He also suggests creating two flow charts as visual aids.

Evan Erickson states that he thinks the north side of Big Bay Road between the Town Hall and the Fire Hall should be changed to C-1.

IV. Adjournment

G. Thury moves to adjourn. C. Baxter seconds. All in favor, 7 aye. Motion Carries. Meeting ends at 6:17 pm.

Town Plan Commission draft minutes are respectfully submitted by Margaretta Kusch on Saturday, July 16, 2011.

Town Plan Commission minutes approved as amended by Margaretta Kusch, ZCA on Wednesday, August 3, 2011.